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ALDO NOTO
ANDREWS KURTH LLP
1701 PENNSYLVANIA AVENUE, N.W.
SUITE 300
WASHINGTON, DC 20006

In re Application of LI et al
Application No.: 10/534,978
PCT Application No.: PCT/US03/35919
Int. Filing Date: 12 November 2003
Priority Date Claimed: 12 November 2002
Attorney Docket No.: 159976
For: METHODS AND COMPOSITIONS FOR
DETECTING TELOMERASE ACTIVITY

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

Applicants' Petition For Revival Under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 16 May 2005 is GRANTED.

BACKGROUND

On 12 November 2003, applicants filed international application PCT/US03/35919. The international application claims a priority date of 12 November 2002 and designates the United States. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 12 May 2005. Applicants missed this deadline.

On 16 May 2005, applicants filed the instant petition for revival accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee of \$1500.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

Applicant's statement in the petition that "the entire delay in filing the required transmittal letter from the due date for the required transmittal letter until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional" is being construed as indicating that the entire delay in filing the required *reply* was unintentional, thus meeting the requirements of 37 CFR 1.137(b)(3). If this interpretation is not correct, applicant should immediately notify the Office of PCT Legal Administration. The submission of the national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing consistent with this decision.


Amy Vanatta
PCT Legal Administration Detailee
Telephone: 571-272-6094
Facsimile: 571-273-0419


Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration